



**LOUISIANA STATE LAW INSTITUTE**

PAUL M. HEBERT LAW CENTER, ROOM W127

UNIVERSITY STATION

BATON ROUGE, LA 70803-1016

OFFICE OF  
THE DIRECTOR  
(225) 578-0200

FAX: (225) 578-0211

EMAIL: LAWINSTITUTE@LSLI.ORG

December 17, 2013

Representative Charles "Chuck" Kleckley  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804-9062

Senator John A. Alario, Jr.  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

**RE: HCR NO. 93 of 2012**

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature in response to 2012 House Concurrent Resolution No. 93, relative to suretyship.

Sincerely,

A handwritten signature in black ink that reads "William E. Crawford".

William E. Crawford  
Director

WEC/puc

cc: Representative Robert E. Billiot

e-mail cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.us](mailto:drplibrary@legis.la.us)  
Secretary of State, Mr. Tom Schedler  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

**LOUISIANA STATE LAW INSTITUTE  
SECURITY DEVICES COMMITTEE**

**INTERIM REPORT TO THE LOUISIANA LEGISLATURE  
IN REPOSE TO HCR NO. 93 OF THE 2012 REGULAR SESSION  
RELATIVE TO SURETYSHIP**

**December 17, 2013**  
**Baton Rouge, Louisiana**

**L. David Cromwell, Reporter**  
**Claire Popovich, Staff Attorney**

**LOUISIANA STATE LAW INSTITUTE**  
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<b>Keith Vetter</b>	<b>New Orleans</b>

**L. David Cromwell, Reporter**  
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**INTERIM REPORT TO THE LOUISIANA LEGISLATURE IN RESPONSE TO HCR  
NO. 93 OF THE 2012 REGULAR SESSION RELATIVE TO SURETYSHIP**

During the 2012 Regular Legislative Session, the Louisiana Legislature passed House Concurrent Resolution No. 93, requesting the Louisiana State Law Institute to study the possibility of "creating procedures that would enable a surety to take possession of collateral in certain circumstances." In view of the subject matter of the resolution, the Law Institute assigned the resolution to the Security Devices Committee.

Since having been assigned the resolution, the Committee has conducted research both to confirm the rights of sureties under existing law upon a default by the principal obligors, as well as the implications of granting additional rights to sureties under these circumstances, particularly implications that might arise from allowing a surety under these circumstances to resort to "self-help." The Committee placed the resolution on its agenda for its latest meeting which was held on August 23, 2013 and has again scheduled the resolution for consideration at its next meeting to be held in early 2014. At that time, the Committee will consider the resolution and the proper response to be given to the legislature. When the Committee reaches a consensus on the proper response, its recommendations will be presented to the Council of the Louisiana State Law Institute for its consideration and guidance. From there the Council will submit its findings to the legislature. In the meantime, the Committee will continue to study the possibility and desirability of enabling a surety to take possession of collateral under certain circumstances.

Respectfully submitted,

L. David Cromwell, Reporter  
Security Devices Committee  
Louisiana State Law Institute

Regular Session, 2012

HOUSE CONCURRENT RESOLUTION NO. 93

BY REPRESENTATIVE BILLIOT

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study creating procedures that would enable a surety to take possession of collateral in certain circumstances and to report its findings on or after January 1, 2014.

WHEREAS, many people obligate themselves as surety of debts for the purchase of movables; and

WHEREAS, the purchased movables are the primary collateral of the debt incurred; and

WHEREAS, if the principal obligor of the debt fails or refuses to make required payments, the surety is then required to make the payments in order to prevent default on the debt and seizure of the collateral; and

WHEREAS, while the surety is making payments on the debt, he frequently does not have possession or control of the collateral; and

WHEREAS, the principal obligor who has failed or refused to make payments retains possession and control of the movable and may cause damage to or destruction of the movable; and

WHEREAS, it would be beneficial to the surety, in addition to his rights of subrogation and reimbursement, if he were able to take possession of the movable in order to protect his interest in the collateral before it is damaged or destroyed.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study creating procedures that would enable a surety to take possession of collateral in certain circumstances and to report its findings and recommendations in the form of specific proposed legislation to the Legislature of Louisiana on or before January 1, 2014.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE